



United States Department of the Interior



IN REPLY REFER TO:
FWS/R8/

FISH AND WILDLIFE SERVICE
Pacific Southwest Region
2800 Cottage Way, Suite W-2606
Sacramento, California 95825

FEB 25 2014

Mr. David Murillo, Regional Director
Mid-Pacific Region
U.S. Bureau of Reclamation
2800 Cottage Way, Suite E1604
Sacramento, California

Dear Mr. Murillo:

On February 20, 2014, Reclamation's Acting Operations Manager, in a memorandum addressed to the Service's Bay Delta Fish and Wildlife Office, requested the following: (1) the Service's concurrence that the proposed Old and Middle River Index Demonstration Project can be used in lieu of the USGS tidally filtered gage data in determining compliance with the 2008 Biological Opinion regarding the Coordinated Long-term Operation of the Central Valley Project and State Water Project (2008 BiOp), and (2) concurrence with Reclamation's determination that implementation of the Demonstration Project will have no additional adverse effects on delta smelt or its critical habitat beyond those analyzed in the 2008 BiOp. As the 2008 BiOp was conveyed from my office to your office, it is more appropriate that this response follow the communication protocol established by the 2008 BiOp.

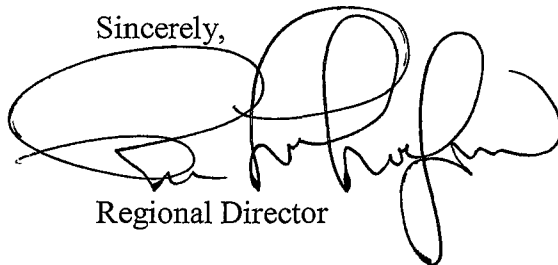
Thank you for the hard work being undertaken by your agency to find solutions during this difficult drought year. The collaboration with the Fish and Wildlife Service is greatly appreciated.

Reclamation has determined that the proposed OMR Demonstration Project will have no additional adverse effects on delta smelt or its critical habitat beyond those analyzed in the 2008 BiOp – essentially a determination of no effect from implementing the Demonstration Project. The Service usually does not comment on “no effect” determinations made by an action agency and in this instance we do not find a reason to differ with Reclamation's determination.

Reclamation is the expert agency with the responsibility of managing water operations to meet OMR flow requirements. The Service does not have this expertise. The Service relies on Reclamation's professional judgment that implementing the demonstration project to manage OMR flow criteria through an index will meet the same goal as determined through the 5-day and 14-day running averages of tidally filtered daily OMR flow as outlined in the 2008 Biological Opinion. I understand the demonstration project may provide greater overall precision in managing water exports while imposing no additional risk to delta smelt or its critical habitat. The increased precision may be highly valuable during this drought year.

As we have discussed previously, I believe there is merit in continuing to collect the results from the 5-day and 14-day running averages of tidally filtered daily OMR flow so results from implementing the proposed demonstration project can be compared to management that would have occurred using the running average methodology. This comparison will provide validation of the Demonstration Project's results and will provide assurances to substantiate the "no effect" determination as the water year progresses. The Service concurs with Reclamation's professional judgment that the experimental Old and Middle River Index Demonstration Project will add precision to water operations while imposing no new risk to delta smelt or its critical habitat.

Sincerely,

A handwritten signature in black ink, appearing to read "S. J. H. H.", is written over the word "Regional Director". The signature is fluid and cursive, with a large loop at the end.

Regional Director